

Private Residential Tenancies Board

RESIDENTIAL TENANCIES ACT 2004

Report of Tribunal Reference No: TR0614-000678 / Case Ref No: 1013-08298

Appellant Tenant:	Vitolds Malijs
Respondent Landlord:	Joseph Lynch
Address of Rented Dwelling:	Flat 4, 36 Terenure Road East, Rathgar , Dublin 6
Tribunal:	Tim Ryan (Chairperson) Orla Coyne, Gene Feighery
Venue:	Tribunal Room, PRTB, 2nd Floor, O'Connell Bridge House, D'Olier Street, Dublin 2
Date & time of Hearing:	21 July 2014 at 10:30
Attendees:	Latalinja Kormilicina, Representative of the Appellant Tenant
In Attendance:	Gwen Malone Stenogrpahers

1. Background:

On 11/10/2013 the Tenant made an application to the Private Residential Tenancies Board ("the PRTB") pursuant to Section 78 of the Act. The matter was referred to an Adjudication which took place on 26/03/2014. The Adjudicator made an Order as per the terms and conditions of an agreement, a copy of which was annexed to and formed part of the Order, in respect of the tenancy of the dwelling at Flat 4, 36 Terenure Road East, Rathgar, Dublin 6.

Subsequently an appeal was received from the Tenant on 03/06/2014. The grounds of the appeal were cited as that an agreement made at the Adjudication was not executed by the Landlord and it was approved by the Board on 06/06/2014.

The PRTB constituted a Tenancy Tribunal and appointed Tim Ryan, Orla Coyne, Gene Feighery as Tribunal members pursuant to Section 102 and 103 of the Act and appointed Tim Ryan to be the chairperson of the Tribunal ("the Chairperson").

The Parties were notified of the constitution of the Tribunal and provided with details of the date, time and venue set for the hearing. On 21/07/2014 the Tribunal convened a hearing at Tribunal Room, PRTB, 2nd Floor, O'Connell Bridge House, D'Olier Street, Dublin 2.

2. Documents Submitted Prior to the Hearing Included:

1. PRTB File

3. Documents Submitted at the Hearing Included:

N/A

4. Procedure:

There was no appearance by the Respondent Landlord. The Tribunal waited until 10.45am before proceeding.

The Chairperson asked the single party present to identify herself in what capacity she was attending the Tribunal. The Party confirmed she was the Representative of the Appellant Tenant. The Chairperson confirmed with the Party that she had received the relevant papers from the PRTB in relation to the case and she had received the PRTB document entitled "Tribunal Procedures".

The Chairperson explained the procedure which would be followed; that the Tribunal was a formal procedure but that it would be as informal as possible; that the Representative of the Party present who appealed (in this case the Tenant) would be invited to present her case to the Tribunal. He also said that members of the Tribunal might ask questions of her from time to time.

He stressed that all evidence would be taken on oath and be recorded by the official stenographer present and he reminded the single party present that knowingly providing false or misleading statements or information to the Tribunal was an offence punishable by a fine of €4,000 and/or up to 6 months imprisonment or both.

The Chairperson also reminded the Party that, as a result of the Hearing that they, the Board, would make a Determination Order which would be issued to the parties and could be appealed to the High Court on a point of law only under Section 123(3) of the Residential Tenancies Act, hereafter referred to as the 'RTA'.

The single Party present giving evidence was then sworn in and the hearing commenced.

5. Submissions of the Parties:

The Representative of the Appellant Tenant confirmed that the only issue before the Tribunal was the alleged failure of the Appellant Tenant to receive back two separate payments of €500 each, made in error to the agent of the Respondent Landlord after the tenancy had ceased.

The Representative of the Appellant Tenant confirmed the tenancy had ended on 19 June 2013 and there was no issue in regard to arrears of rent. The deposit of €500 had also been returned to the Appellant Tenant.

However, the Representative of the Appellant Tenant said two further payments of €500 had been paid to the bank account of the agent of the Respondent Landlord in error by Standing Order on 19 August 2013 and 17 September 2013 respectively. The Standing Order was subsequently cancelled. Copies of bank statements were submitted in evidence.

She said the Appellant Tenant had contacted the agent of the Respondent Landlord and asked them to repay the monies to a new bank account number the details of which he had furnished to the Landlord's agent as he had then closed an old account. However, in an email dated 15 April 2014, the agent for the Respondent Landlord confirmed that the

monies, which had been transferred to the new account number as furnished on 4 April 2014 was returned to their bank and they sought further clarification on the IBAN and BIC details of the new account which was in the United Kingdom.

The Representative of the Appellant Tenant told the Tribunal that the monies had still not been transferred and that she was seeking an Order requesting the transfer.

6. Matters Agreed Between the Parties

N/A

7. Findings and Reasons:

The agent of the Respondent Landlord is obliged to return any overpayments of rent to the Appellant Tenant. The agent has already agreed to this and has attempted to make the transfer. However, this has not been successful due to a change of bank account by the Appellant Tenant.

The Tribunal has no role in the technical details of the transfer of monies between a tenant and a landlord which are matters between the parties themselves and the relevant banks.

8. Determination:

Tribunal Reference TR0614-000678

In the matter of Vitolds Malijs (Tenant) and Joseph Lynch (Landlord) the Tribunal in accordance with section 108(1) of the Residential Tenancies Act 2004, determines that:

The Order of the Adjudicator is affirmed in that the Respondent Landlord shall pay the sum of €1,000 to the Appellant Tenant within 14 days of the issue of this Order by the Board, being the overpayment of rent in respect of the tenancy of the dwelling at Flat 4, 36 Terenure Road East, Rathgar, Dublin 6.

The Tribunal hereby notifies the Private Residential Tenancies Board of this Determination made on 25 July 2014.

Signed:



Tim Ryan Chairperson

For and on behalf of the Tribunal.